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A Division of
NBCUniversal Media, LLC



May 6, 2014

Hon. William G. Young
United States District Court
1 Courthouse Way, Suite 2300
Boston, MA 02210

Re: United States of America / Trustees of Boston College (Case: 1:11-mc-91078-WGY)

Dear Judge Young:

NBC News respectfully writes to request that the Court unseal any and all transcripts, audio recordings, and/or documents related to a subpoena served to the Trustees of Boston College by the United States of America and referred to in the above noted case.

The knowledge of a subpoena served by the U.S. Attorney regarding an oral history project by Boston College has been made public through published work(s) by the school. This Court has entertained legal proceedings regarding the production of records created by Boston College and their eventual transfer to foreign government(s).

As the Court is aware, the public and the press have a presumptive right of access to court records. In *Nixon v. Warner Cable*, the Supreme Court recognized an historic common law right of access to judicial documents. 435 U.S. 589, 597 (1978). "The common law right of access is not limited to evidence, but rather encompasses all 'judicial records and documents.'" Quoting Chief Justice Burger in *Richmond Newspapers*, "To work effectively, it is important that society's criminal process 'satisfy the appearance of justice,' and the appearance of justice can best be provided by allowing people to observe it." *Id.* at 821 (quoting *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555 (1980)).

This case or any case involving incidents of terrorism and criminality committed by several and various parties representing diverse ideologies both political and religious is a matter of great public interest. These parties may also at this time or in the past have had direct official contact with the government of the United States of America.

As the Court is aware, allowing public access to court proceedings not only helps to ensure the public is informed but also demonstrates the fairness of the law being administered to all the citizenry; in the check that such openness provides on the judiciary as a restraint against possible abuse of power; and helps to ensure the propriety and appearance of propriety in judicial proceedings. Particularly of interest in this case is propriety and appearance of propriety in judicial proceedings involving the United States of America and foreign government(s).

We understand there are times that other concerns may outweigh the strong presumption of access. But we believe the Court should put the burden on the parties, including the Court itself, as to why documents should

remain sealed in this important case – not the members of the press seeking access. If there is a specific finding to continue to keep some materials sealed, we request the Court keep such sealing limited in scope with perhaps limited redactions instead of sealing the records in their entirety. NBC News also requests the Court provide particularized findings if the materials are to be remained sealed and as a result remain hidden from public view at this time.

We believe these materials should be made public as soon as possible. We request they be put in the public court file at no expense to the public since the public could not attend the initial hearing in question due to the Court's sealing order.

Should the Court have any questions or require further information, please feel free to contact me by phone at 212-413-6446.

Your time and consideration in this matter is greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas J. Winter", written over the printed name.

Thomas J. Winter

NBC News Investigations

212-413-6446